

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PEDRO PANTOJA,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:22-cv-001127-CDB (SS)

ORDER GRANTING MOTION FOR  
SUMMARY JUDGMENT

(Docs. 14, 17, 18)

Plaintiff Pedro Pantoja (“Plaintiff”) seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner” or “Defendant”) denying his application for disability benefits under the Social Security Act. (Doc. 1). The matter is currently before the Court on the parties’ briefs, which were submitted without oral argument. (Docs. 14, 17, 18). Upon review of the Administrative Record (“AR”) and the parties’ briefs, the Court finds and rules as follows.<sup>1</sup>

**I. BACKGROUND**

**A. Administrative Proceedings and ALJ’s Decision**

On March 26, 2019, Plaintiff filed a Title XVI application for supplemental security income, alleging a period of disability beginning that same day. (AR 262-267). Plaintiff’s application was

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<sup>1</sup> On December 9, 2022, after the parties consented to the jurisdiction of a U.S. Magistrate Judge for all further proceedings pursuant to 28 U.S.C. § 636(c)(1), this action was reassigned to a U.S. Magistrate Judge. (Doc. 13).

1 denied initially and on reconsideration. (AR 149, 172). Plaintiff then filed a request for a hearing  
2 before an Administrative Law Judge (“ALJ”). (AR 192-200). On July 15, 2021, the assigned ALJ,  
3 Debra L. Boudreau, held a hearing; Plaintiff attended with counsel, Lindsay Newsha, as did  
4 vocational expert (“VE”) David Perry. (AR 38-78). The ALJ issued her decision on August 3,  
5 2021, finding Plaintiff not disabled. (AR 12-37). On August 10, 2022, the Appeals Council denied  
6 Plaintiff’s request for review. (AR 1-6). Thereafter, Plaintiff filed the instant action.

7 In her decision, the ALJ used the five-step sequential evaluation process promulgated by  
8 the Social Security Administration for determining whether an individual is disabled. (AR 16-18;  
9 citing 20 C.F.R. 416.920(a)). At step one, the ALJ found that Plaintiff had not engaged in  
10 substantial gainful activity since his alleged onset date of March 26, 2019. At step two, the ALJ  
11 concluded that Plaintiff had the following severe impairments: degenerative disc disease of the  
12 cervical and lumbar spine; degenerative joint disease of the bilateral hips; peripheral neuropathy;  
13 obesity; major depressive disorder; and generalized anxiety disorder. The ALJ also found that  
14 Plaintiff had the following non-severe impairments: obstructive sleep apnea, carpal tunnel  
15 syndrome, asthma, diabetes mellitus, mixed hyperlipidemia, right knee meniscal tear, vertigo,  
16 marijuana dependence, hearing loss, gastroesophageal reflux disease, rectal bleeding, “mild” left  
17 glenohumeral joint effusion, and an arthropathic left acromioclavicular joint. (AR 18). At step  
18 three, after identifying these impairments, the ALJ found that Plaintiff did not have an impairment,  
19 or any combination of impairments, that meets or medically equals the severity of one of the listed  
20 impairments in 20 C.F.R. Part 404, Subpart P, Appendix 1. (AR 18-19).

21 The ALJ reached this determination by considering the four broad functional areas of  
22 mental functioning listed in the “paragraph B” criteria. *See* 20 C.F.R. § Pt. 404, Subpt. P, App. 1.  
23 The first functional area is understanding, remembering, or applying information. The second  
24 functional area is interacting with others. The third functional area is concentrating, persisting, or  
25 maintaining pace. Lastly, the fourth functional area is adapting or managing oneself. The ALJ  
26 found that Plaintiff had moderate limitations in the first three functional areas, and no limitation in  
27 the fourth functional area. (AR 19-20).

28 The ALJ found Plaintiff had the residual functional capacity (“RFC”) to perform light work

1 as defined in 20 C.F.R. § 416.967(b). (AR 20-21). The ALJ determined that Plaintiff's  
2 impairments could reasonably be expected to cause her alleged symptoms but the intensity,  
3 persistence, and limiting effects of those symptoms were not entirely consistent with the evidence  
4 in the record. (AR 21-27). The ALJ proceeded to examine the medical opinions of record, finding  
5 each of them unpersuasive. (AR 24-26).

6 At step four, the ALJ found that Plaintiff was unable to perform any past relevant work.  
7 (AR 27). The ALJ concluded by discussing the VE's testimony and the Dictionary of Occupational  
8 Titles ("DOT"), finding that Plaintiff would be able to perform the requirements of jobs that exist  
9 in significant numbers in the national economy, namely callout operator, document preparer, and  
10 addressing clerk. (AR 28-30).

11 The ALJ found Plaintiff had not been under a disability from March 26, 2019. (AR 30).

## 12 **B. Medical Record and Hearing Testimony**

13 The relevant hearing testimony and medical record were reviewed by the Court and will be  
14 referenced below as necessary to this Court's decision.

## 15 **II. STANDARD OF REVIEW**

16 A district court's review of a final decision of the Commissioner of Social Security is  
17 governed by 42 U.S.C. § 405(g). The scope of review under § 405(g) is limited; the  
18 Commissioner's decision will be disturbed "only if it is not supported by substantial evidence or is  
19 based on legal error." *Hill v. Astrue*, 698 F.3d 1153, 1158 (9th Cir. 2012). "Substantial evidence"  
20 means "relevant evidence that a reasonable mind might accept as adequate to support a  
21 conclusion." *Id.* at 1159 (quotation and citation omitted). Stated differently, substantial evidence  
22 equates to "more than a mere scintilla[,] but less than a preponderance." *Id.* (quotation and citation  
23 omitted). "[I]t is such relevant evidence as a reasonable mind might accept as adequate to support  
24 a conclusion." *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995) (citation omitted). In  
25 determining whether the standard has been satisfied, a reviewing court must consider the entire  
26 record as a whole rather than searching for supporting evidence in isolation. *Id.*

27 The court will review only the reasons provided by the ALJ in the disability determination  
28 and may not affirm the ALJ on a ground upon which she did not rely. Social Security Act § 205,

1 42 U.S.C. § 405(g). In reviewing a denial of benefits, a district court may not substitute its  
2 judgment for that of the Commissioner. “The court will uphold the ALJ’s conclusion when the  
3 evidence is susceptible to more than one rational interpretation.” *Tommasetti v. Astrue*, 533 F.3d  
4 1035, 1038 (9th Cir. 2008). Further, a district court will not reverse an ALJ’s decision on account  
5 of an error that is harmless. *Id.* An error is harmless where it is “inconsequential to the [ALJ’s]  
6 ultimate nondisability determination.” *Id.* (quotation and citation omitted). The party appealing  
7 the ALJ’s decision generally bears the burden of establishing that it was harmed. *Shinseki v.  
8 Sanders*, 556 U.S. 396, 409-10 (2009).

9 A claimant must satisfy two conditions to be considered “disabled” and eligible for benefits  
10 within the meaning of the Social Security Act. First, the claimant must be “unable to engage in any  
11 substantial gainful activity by reason of any medically determinable physical or mental impairment  
12 which can be expected to result in death or which has lasted or can be expected to last for a  
13 continuous period of not less than twelve months.” 42 U.S.C. § 1382c(a)(3)(A). Second, the  
14 claimant’s impairment must be “of such severity that he is not only unable to do his previous  
15 work[,] but cannot, considering his age, education, and work experience, engage in any other kind  
16 of substantial gainful work which exists in the national economy.” 42 U.S.C. §  
17 1382c(a)(3)(B).

18 The Commissioner has established a five-step sequential analysis to determine whether a  
19 claimant satisfies the above criteria. *See* 20 C.F.R. § 416.920(a)(4)(i)-(v). At step one, the  
20 Commissioner considers the claimant’s work activity. 20 C.F.R. § 416.920(a)(4)(i). If the claimant  
21 is engaged in “substantial gainful activity,” the Commissioner must find that the claimant is not  
22 disabled. 20 C.F.R. § 416.920(b).

23 If the claimant is not engaged in substantial gainful activity, the analysis proceeds to step  
24 two. At this step, the Commissioner considers the severity of the claimant’s impairment. 20 C.F.R.  
25 § 416.920(a)(4)(ii). If the claimant suffers from “any impairment or combination of impairments  
26 which significantly limits [his or her] physical or mental ability to do basic work activities,” the  
27 analysis proceeds to step three. 20 C.F.R. § 416.920(c). If the claimant’s impairment does not  
28 satisfy this severity threshold, however, the Commissioner must find that the claimant is not

1 disabled. *Id.*

2 At step three, the Commissioner compares the claimant's impairment to impairments  
3 recognized by the Commissioner to be so severe as to preclude a person from engaging in  
4 substantial gainful activity. 20 C.F.R. § 416.920(a)(4)(iii). If the impairment is as severe or more  
5 severe than one of the enumerated impairments, the Commissioner must find the claimant disabled  
6 and award benefits. 20 C.F.R. § 416.920(d).

7 If the severity of the claimant's impairment does not meet or exceed the severity of the  
8 enumerated impairments, the Commissioner must pause to assess the claimant's "residual  
9 functional capacity." Residual functional capacity (RFC), defined generally as the claimant's  
10 ability to perform physical and mental work activities on a sustained basis despite his or her  
11 limitations (20 C.F.R. § 416.945(a)(1)), is relevant to both the fourth and fifth steps of the analysis.

12 At step four, the Commissioner considers whether, in view of the claimant's RFC, the  
13 claimant is capable of performing work that he or she has performed in the past (past relevant  
14 work). 20 C.F.R. § 416.920(a)(4)(iv). If the claimant is capable of performing past relevant work,  
15 the Commissioner must find that the claimant is not disabled. 20 C.F.R. § 416.920(f). If the  
16 claimant is incapable of performing such work, the analysis proceeds to step five.

17 At step five, the Commissioner considers whether, in view of the claimant's RFC, the  
18 claimant is capable of performing other work in the national economy. 20 C.F.R. §  
19 416.920(a)(4)(v). In making this determination, the Commissioner must also consider vocational  
20 factors such as the claimant's age, education, and past work experience. *Id.* If the claimant is  
21 capable of adjusting to other work, the Commissioner must find that the claimant is not disabled. 20  
22 C.F.R. § 416.920(g)(1). If the claimant is not capable of adjusting to other work, the analysis  
23 concludes with a finding that the claimant is disabled and is therefore entitled to benefits. *Id.*

24 The claimant bears the burden of proof at steps one through four above. *Tackett v. Apfel*,  
25 180 F.3d 1094, 1098 (9th Cir. 1999). If the analysis proceeds to step five, the burden shifts to the  
26 Commissioner to establish that (1) the claimant is capable of performing other work; and (2) such  
27 work "exists in significant numbers in the national economy." 20 C.F.R. § 416.960(c)(2); *Beltran*  
28 *v. Astrue*, 700 F.3d 386, 389 (9th Cir. 2012).

1                   **III. ISSUES AND ANALYSIS**

2                   Plaintiff seeks judicial review of the Commissioner’s final decision denying his application.  
 3 (Doc. 1). Plaintiff raises the following issues:

4                   1.         The ALJ erred by failing to resolve conflicts between the occupations  
 5                   provided by the VE, the DOT, and Plaintiff’s RFC (Doc. 14 at 6-11); and  
 6                   2.         Any remand for further proceedings should be limited to solely the findings  
 7                   made by the ALJ at step five based on the RFC (*id.* at 11-12).

8                   **A. Whether the ALJ Erred by Failing to Resolve Conflicts Between the Occupations  
 9                   Provided by the VE, the DOT, and Plaintiff’s RFC**

10                  “An ALJ may take administrative notice of any reliable job information, including  
 11 information provided by a VE.” *Bayliss v. Barnhart*, 427 F.3d 1211, 1218 (9th Cir. 2005). A “VE’s  
 12 recognized expertise provides the necessary foundation for his or her testimony” and, accordingly,  
 13 “no additional foundation is required.” *Id.* Because the Dictionary of Occupational Titles (“DOT”)  
 14 is not comprehensive, “[i]ntroduction of evidence of the characteristics of specific jobs available in  
 15 the local area through the testimony of a [VE] is appropriate, even though the job traits may vary  
 16 from the way the job title is classified in the DOT.” *Johnson v. Shalala*, 60 F.3d 1428, 1435 (9th  
 17 Cir. 1995). Indeed, a VE might be more knowledgeable about a particular job’s requirements due  
 18 to their experience in job placement or career counseling. SSR 00-4p. Therefore, a VE may be  
 19 able to offer more specific information about jobs or occupations than provided in the DOT. *Id.*  
 20 The ALJ permissibly may rely on VE testimony regarding “(1) what jobs the claimant, given his  
 21 or her [RFC], would be able to do; and (2) the availability of such jobs in the national economy.”  
 22 *Tackett*, 180 F.3d at 1101.

23                  However, the ALJ cannot “rely on a vocational expert’s testimony regarding the  
 24 requirements of a particular job without first inquiring whether the testimony conflicts with the  
 25 Dictionary of Occupational Titles.” *Massachi v. Astrue*, 486 F.3d 1149, 1152 (9th Cir. 2007). The  
 26 ALJ has an affirmative duty to inquire as to whether there are potential conflicts between the VE’s  
 27 testimony and the DOT and direct an explanation from the VE regarding any such conflicts. *See*  
 28 SSR 00-4p; *see also Massachi*, 486 F.3d at 1152-53. The ALJ must determine whether any such

1 explanation is “reasonable and whether a basis exists for relying on the expert rather than the DOT.”  
2 *Massachi*, 486 F.3d at 1153. In addition, neither the DOT nor the VE’s evidence “trumps” the  
3 other when there is a conflict. Instead, the ALJ must resolve the conflict by determining if the  
4 explanation given by the VE is reasonable and provides a basis for relying on the VE’s testimony  
5 rather than the DOT information. SSR 00-4p.

6 Even if a VE attests that her testimony is consistent with the DOT, “[i]f a conflict is ‘obvious  
7 or apparent,’ this triggers the ALJ’s obligation to inquire further … the focus of the conflict inquiry  
8 is the ‘essential, integral, or expected’ job requirements set forth in the DOT.” *Lashaw O. v.*  
9 *Comm’r of Soc. Sec.*, No. 24-CV-1461-W-SBC, 2025 WL 1482282, at \*13 (S.D. Cal. May 23,  
10 2025) (finding obvious conflict between DOT definition of housekeeper job, where common sense  
11 and real-world experience demonstrated majority of tasks required regular standing and walking,  
12 and RFC that plaintiff sit for five minutes every thirty minutes).

13 *i. Parties’ Arguments and Analysis*

14 Plaintiff asserts that the ALJ failed to identify conflicts between the VE’s testimony and the  
15 DOT, as the occupations set forth in the decision could not be done by an individual with Plaintiff’s  
16 RFC, or do not correspond to a significant number of jobs in the national economy. (Doc. 14 at 7).  
17 Plaintiff argues that the job of callout operator, set forth by the VE during the hearing, exceeds both  
18 the RFC’s social interaction limitations and its limitation to “simple, routine tasks requiring little  
19 to no judgment” as it requires a Reasoning Level of three, which involves problems with several  
20 variables and the ability to understand and carry out detailed instructions. *Id.* at 8-9. Plaintiff  
21 contends that the job of document preparer exceeds the RFC as it, too, requires a Reasoning Level  
22 of three. *Id.* at 9.

23 Plaintiff argues that the position of addressing clerk is “obsolete on its face” as it was last  
24 updated in 1977 and “[a]ddressing envelopes by hand or typewriter is no longer a common practice  
25 in modern workplaces,” as confirmed by a study conducted by the “Social Security  
26 Administration’s own experts.” Plaintiff provides that the cited study found the “addresser job  
27 obsolete” in 2011 and noted that it was doubtful said jobs existed in significant numbers in the  
28 national economy. *Id.* at 10-11. Plaintiff asserts that, even if 15,000 such jobs existed in the

1 national economy, as found by the VE, this would not represent a significant number of jobs. *Id.*  
2 at 11 (citing AR 72 & *Gutierrez v. Comm'r of Soc. Sec.*, 740 F.3d 519, 529 (9th Cir. 2014)).

3 Defendant does not contest Plaintiff's contentions and concedes that remand, pursuant to  
4 sentence four of 42 U.S.C. § 405(g), is appropriate. (Doc. 17 at 4). A review of the ALJ's decision  
5 and the hearing transcript confirms the represented findings at step five. (AR 28-30, 71-77). Thus,  
6 as Defendant does not oppose Plaintiff on this issue and is in agreement with the requested relief,  
7 the Court will find in favor of Plaintiff. See *Yanez v. Comm'r of Soc. Sec.*, No. 2:24-CV-02285-  
8 CSK, 2025 WL 2207421, at \*4 (E.D. Cal. Aug. 4, 2025) (finding in favor of plaintiff on challenge  
9 to ALJ's step five determination where defendant did not oppose and agreed remand was  
10 appropriate).

11           **B. Whether any Remand for Further Proceedings Should Be Limited to Solely the**  
12           **Findings Made by the ALJ at Step Five Based on the RFC**

13           *i. Parties' Arguments*

14 Plaintiff asserts that where, "as here, a plaintiff challenges only the ALJ findings at step five  
15 of the sequential evaluation process [], the Court is constrained to ruling on step-five issues only."  
16 (Doc. 14 at 11) (citing *Brown v. Kijakazi*, 11 F.4th 1008, 1010 (9th Cir. 2001)). Plaintiffs seek that  
17 any remand order should clarify that remand is "for the sole purpose of making new step-five  
18 findings based on the previously assessed RFC." *Id.* at 12.

19 Defendant asserts that the remand order "should not interfere with the agency's ability to  
20 make appropriate findings on remand based on the evidence." (Doc. 17 at 4). Defendant attempts  
21 to distinguish *Brown v. Kijakazi*, noting that there the ALJ issued a partially favorable decision and  
22 the parties agreed to a remand, but while the agency sought to revisit both the favorable and  
23 unfavorable portions of the decision, the claimant sought that only the denial of benefits be  
24 addressed, with the court concluding that the scope of remand would be limited to the unfavorable  
25 portion of the decision. Defendant argues that, unlike *Brown*, here the ALJ found that the Plaintiff  
26 was not disabled during the entire period under consideration. Defendant contends that while  
27 "*Brown* limited the Court's remand to just the unfavorable decision that a claimant is not disabled,  
28 nothing in *Brown* holds that a claimant can handpick the evidentiary findings within a decision that

1 he wants set aside.” *Id.* at 5.

2 Separately, Defendant asserts that the ALJ previously adjudicated the period from March  
3 26, 2019 (the application date), to August 3, 2021 (the decision date), but following any remand,  
4 the adjudicated period will be from March 26, 2019, through the date of the new decision and  
5 therefore, through to the present day and after. Defendant contends that, thus, this later period will  
6 result in evaluation of new evidence and, if such record development reveals improved functioning,  
7 “the ALJ’s hands would nevertheless be tied. Similarly, if evidence developed on remand called  
8 into question the ALJ’s findings during the previously-adjudicated period, Plaintiff’s reading of  
9 *Brown* would bar the ALJ from making new findings.” *Id.* at 6.

10 Defendant argues that “the law of the case doctrine applies only when a court has actually  
11 decided an issue,” and here, Plaintiff did not seek a ruling from this Court regarding the ALJ’s  
12 findings at steps one through four. Thus, “there is no ruling concerning those findings that will  
13 become the law of the case.” Defendant contends that “future ALJ hearing decision will cover  
14 evidence from some two years that have not been previously adjudicated” and, because “the record  
15 will contain significant development,” the law of the case doctrine would not apply. *Id.* at 7-8.

16 In reply, Plaintiff asserts that the “law of the case doctrine applies to administrative  
17 proceedings on remand the same way it would apply in any other case.” (Doc. 18 at 3) (citing *Stacy*  
18 *v. Colvin*, 825 F.3d 563, 567 (9th Cir. 2016)). Plaintiff argues that, in *Stacy*, the “court nonetheless  
19 held that the law of the case doctrine would still apply to Stacy’s case in the absence of new, highly  
20 probative evidence,” despite a protracted delay from “nearly 14 years” of appeals and remands. *Id.*  
21 at 3-4.

22                   *ii. Analysis*

23 Here, Plaintiff does not challenge the ALJ’s findings prior to step five. “The majority of  
24 courts in this district addressing the same or similar issue have granted remand limited to Step  
25 Five.” *Yanez*, 2025 WL 2207421, at \*4 (E.D. Cal. Aug. 4, 2025) (collecting cases and citing, *inter*  
26 *alia*, *De Jong v. Comm’r of Soc. Sec.*, 2024 WL 4437190, at \*3-4 (E.D. Cal. Oct. 4, 2024)). This  
27 approach gives credence to the Ninth Circuit’s holdings that the relief a plaintiff seeks in the  
28 complaint defines the scope of remand and that a court has “no authority to set aside, or to disturb”

1 elements of the ALJ's decision that a plaintiff did not challenge. *Brown*, 11 F.4th at 1009-1010  
2 (9th Cir. 2021). Other courts resolving the same issue raised by the parties here aptly have noted  
3 that "the broader principle that applies from *Brown* is that a claimant gets to choose what portions  
4 of an ALJ's decision that the claimant wants to challenge and the Court is limited to the relief  
5 requested by the Claimant." *Nevels v. Comm'r of Soc. Sec. Admin.*, No. CV-24-02121-PHX-DGC,  
6 2025 WL 2586138, at \*3 (D. Ariz. Sept. 8, 2025) (citing *De Jong*, 2024 WL 4437190, at \*3); *see also De Jong*, 2024 WL 4437190, at \*3 n.2 (finding the same).

8 Defendant asserts that the law of the case doctrine should not be applied here given the  
9 likelihood that any review and new decision by an ALJ on remand would involve updated evidence  
10 that the ALJ would be unable to consider if remand is limited to findings at step five. Pursuant to  
11 the law of the case doctrine, the ALJ may not reconsider findings prior to step five unless the  
12 evidence on remand is substantially different. *Stacy*, 825 F.3d at 567; *see Nevels*, 2025 WL  
13 2586138, at \*2 ("Plaintiff does not challenge the ALJ's findings at steps one, two, and three ... Nor  
14 does Plaintiff challenge the ALJ's finding that she has the RFC to perform only sedentary work  
15 with restrictions. Under the law of the case doctrine, these findings may not be reconsidered unless  
16 the evidence on remand is substantially different."). However, the Court finds that an instruction  
17 limiting the ALJ to reconsider the findings at step five through the date of the ALJ's decision will  
18 sufficiently ameliorate Defendant's concerns. *See Yanez*, 2025 WL 2207421, at \*4 ("Defendant  
19 states that it is inappropriate for a court to force an ALJ to ignore updated evidence on remand.  
20 However, Plaintiff is only requesting that the Court 'not affirmatively empower the ALJ to re-  
21 adjudicate unchallenged findings through the date of the last decision.' As outlined below, the  
22 Court will instruct the ALJ to reconsider the Step Five finding through the date of the ALJ's  
23 decision, which will avoid the concern Defendant raises."); *Nevels*, 2025 WL  
24 2586138, at \*4 ("But Plaintiff asks the Court to rule only on the relief requested in her complaint  
25 and opening brief, which will not involve consideration of the time period after [the date of the  
26 ALJ's decision.]"); *De Jong*, 2024 WL 4437190, at \*4 ("As set forth below, the Court will instruct  
27 the ALJ to reconsider the Step 5 finding through the date of the ALJ's decision, which will avoid  
28 the concern that Defendant raises.").

1       On September 3, 2025, Defendant filed a notice of supplemental authority, citing as relevant  
2 the recently decided case of *Velazquez v. Bisignano*, No. 24-3034, 2025 WL 2437493 (9th Cir.  
3 Aug. 25, 2025). (Doc. 19). In that case, the Commissioner conceded in the district court that an  
4 ALJ committed error at step three. Accordingly, the district court remanded the case for further  
5 proceedings and noted that Plaintiff's additional claim of error at step five was "moot." *Jacob I. v.*  
6 *Comm'r of Soc. Sec.*, No. 1:22-cv-05522-RMI, 2024 WL 1077324, at \*2 (N.D. Cal. Mar. 12, 2024).  
7 In its remand order, the court directed the ALJ to reevaluate the plaintiff's RFC, and also, to  
8 consider issues raised in the plaintiff's briefing regarding the VE's testimony as necessary  
9 (presumably, the claimed step five error). *Id.* at \*3. On appeal, the plaintiff argued the district  
10 court committed error by failing to address his challenge to the ALJ's step five analysis and sought  
11 an immediate award of benefits. *Velazquez*, 2025 WL 2437493, at \*1. In its unpublished  
12 memorandum disposition, the Ninth Circuit panel affirmed the district court's remand order, noting  
13 that the plaintiff was not entitled to the immediate award of benefits because he had not obtained  
14 any favorable decision granting full or partial benefits. *Id.* at \*2. The Court clarified that "[o]n  
15 remand, however, the ALJ must consider Velazquez's objection to the vocational expert's job  
16 numbers methodology." *Id.*

17       To the extent the Commissioner notices *Velazquez* for the proposition that it supports  
18 remand here for a full *de novo* hearing not limited to the single claim of error raised by Plaintiff  
19 (Step Five), the undersigned disagrees with that proposition. Both the district court and the Ninth  
20 Circuit in *Velazquez* directed the ALJ to consider anew the step five issue for which the plaintiff  
21 had sought relief in the district court in addition to the conceded error at step three. Neither the  
22 district court nor the Ninth Circuit granted the relief the Commissioner seeks here – an unlimited  
23 remand permitting *de novo* review.

24       Thus, the Court finds that remand is appropriate, limited to reconsideration of the ALJ's  
25 step five findings through the date of the decision.

26       **IV. CONCLUSION**

27       Accordingly, IT IS HEREBY ORDERED that:

28       1. Plaintiff's motion for summary judgment (Doc. 14) is GRANTED.

1       2. This matter is REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for  
2 further proceedings consistent with this decision. The ALJ is directed to consider  
3 whether there are a substantial number of jobs available that Plaintiff can perform  
4 in connection with the findings at step five, through the date of the decision that  
5 Plaintiff challenges herein. The ALJ may not reconsider previous findings  
6 unrelated to step five, such as redetermining Plaintiff's RFC. However, this order  
7 does not constrain the ALJ's decision-making role for any unadjudicated period.  
8       3. The Clerk of the Court shall enter judgment in favor of Plaintiff and against  
9 Defendant, terminate any deadlines, and close this case.

10 IT IS SO ORDERED.

11 Dated: September 26, 2025

  
UNITED STATES MAGISTRATE JUDGE

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